

REMARKS

Claims 1-12 are presented for prosecution in the present application, claims 13-15 being "withdrawn."

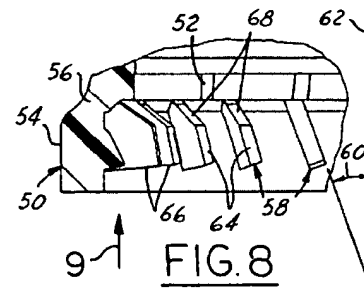
Claims 1-12 have been rejected over the prior art. In particular, independent claims 1 and 7 are rejected as allegedly being anticipated by Kamath 5,320,234, Przytulla 5,915,579 and/or Ma 6,112,923. Reconsideration is respectfully requested.

Background and Summary of the Claimed Subject Matter

As noted in the background portion of the present application at page 1, line 5 to page 2, line 6, the present application is directed to a specific problem presented in connection with tamper-indicating closures having wing-type abutment elements that extend from the inside surface of the frangible tamper band. In the prior art, such wings are flat and flexibly connected to the inner surface of the tamper band along lines that are disposed at a clockwise or positive angle with respect to the axis of the closure skirt as viewed from inside the skirt. Such clockwise or "positive" angle wing-type closures are illustrated, for example, in Wilde 4,418,828 and 4,497,765 already of record. Such wing-type tamper-indicating closures conventionally are fabricated in molds that use a straight stripping-type demolding action as shown in Wilde '765 for example. However, conventional closures of this type are not well suited for use in combination with containers having ratchet tamper indicating means on the container neck finish, as distinguished from a simple bead that extends around the container neck finish as shown in Wilde '828 for example. Nor are such prior art closures well suited for fabrication in an injection molding operation of the type in which it is necessary to unthread the closure from the mold core,

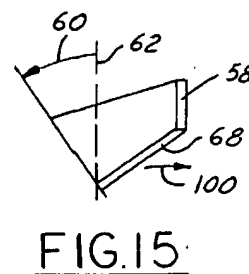
as opposed to merely axially stripping the closure from the mold core. In such a manufacturing operation, the positive or clockwise angle wings on the prior art tamper band would be folded and permanently deformed if the closure were unthreaded from the mold core.

To overcome these problems in the prior art, the present invention provides a wing-type tamper-indicating closure in which the wings are flexibly resiliently connected to the inner surface of the tamper band along lines that are disposed at a negative or counterclockwise angle with respect to the



axis of the skirt as viewed from inside the skirt. This distinguishing feature of the present invention is specifically recited at independent claim 1, lines 6-8 and independent claim 7, lines 10-12. This subject matter is illustrated in FIG. 8 of the application and discussed in the application text in connection with FIG. 8. Thus, wings 58 are connected to the tamper band 50 along lines that are disposed at a counterclockwise angle 60 with respect to the axis 62 of the closure skirt as viewed from inside the skirt.

Application FIG. 15 illustrates the action during demolding by unthreading the closure from the mold core. Wings 58 fold in the direction 100 and are not permanently deformed. By contrast, FIG. 16 illustrates what would happen if the wings were molded



at the positive or clockwise angle of the prior art and unthreaded form the mold core during demolding. The wings 102 would be folded in the direction 106 counter to the angle at which the wings project from the inside surface of the tamper band, permanently distorting and deforming the wings.

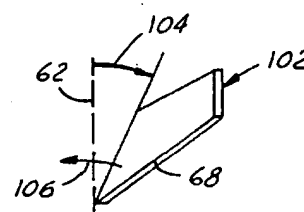
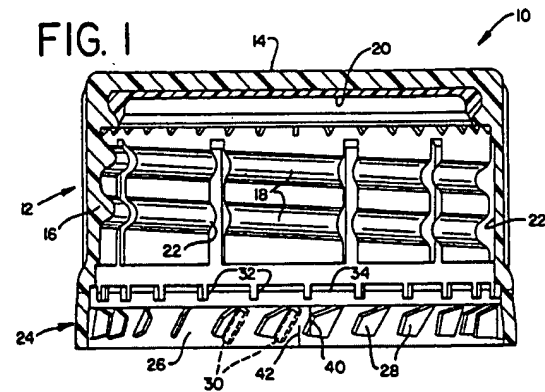


FIG. 16

Claim Rejections - Prior Art

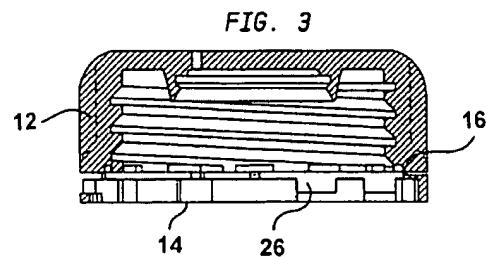
It is axiomatic that, in order to “anticipate” a claim, “all the elements in the claim (or possibly their equivalents...) must have been disclosed in a single prior art reference or device.” *Radio Steel & Mfg. Co. v. MTD Products, Inc.*, 731 F.2d 840, 845, 221 U.S.P.Q. 657, 661 (Fed. Cir. 1984). Moreover, “it is incumbent upon the Examiner to identify wherein each and every facet of the claimed invention is disclosed in the applied reference.” *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1462 (BPAI 1990). If anticipation is based upon alleged inherency, such alleged inherency must be certain, and cannot be established by probabilities or speculation. *Ex parte Cyba*, 155 U.S.P.Q. 756 (POBA 1967); *Ex parte Keither*, 154 U.S.P.Q. 320 (POBA 1967). “It is improper for an examiner to attempt to rebuild a reference . . . , in light of appellant’s disclosure, in order for it to operate in a manner never intended or contemplated” by the reference in an effort to support a rejection based upon alleged anticipation. *Ex parte Garrett*, 132 U.S.P.Q. 514 (POBA 1961).

Kamath 5,320,234 is another example of the prior art discussed in the background portion of the present application text. As clearly shown in FIG. 1 of Kamath, the flexible resilient wings 28



are connected to the inside surface 26 of the tamper band 24 along lines that are disposed at a clockwise angle with respect to the axis of the closure skirt as viewed from the inside the skirt. (Note that the two Wilde patents discussed above are specifically referenced at column 1, lines 18-22 of Kamath.) Kamath clearly does not anticipate or even suggest the subject matter of independent claims 1 and 7.

The flexible elements 34 are connected to the inside surface of the tamper band 14 in Przytulla along lines that are parallel to the closure axis as viewed from inside this closure skirt, as best shown in FIG. 3 of that reference. Thus, this reference clearly does not anticipate or suggest either claim 1 or claim 7 of the present application.



The closure disclosed in Ma is deficient in several respects insofar as the present application is concerned. First, the "wedge or ramp elements" 226 in FIGS. 13 and 14 are not flexibly or resiliently connected to the inner surface of the tamper band 218,

but rather are part of the annular rim 224 that extends from the free end of the tamper band. Furthermore, as clearly shown in FIG. 13, the wedge or ramp elements 226 are at a positive or clockwise angle to the axis of the closure skirt as viewed from inside the skirt, as distinguished from being at a counterclockwise angle with respect to the axis of the skirt as viewed from inside the skirt. Thus, independent claims 1 and 7 clearly are not anticipated or suggested by Ma.

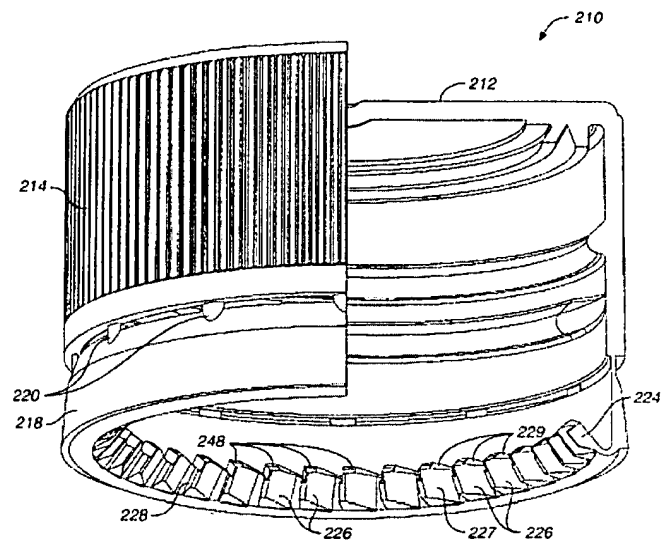


FIG. 13

Curry 4,548,329 is cited relative to dependent claims 10 and 11, and does not supply the aforementioned deficiencies relative to the primary references.

It therefore is believed and respectfully submitted that all elected claims 1-12 are allowable at this time, and favorable action is respectfully solicited.

Please charge any fees associated with this submission to Account No. 15-0875
(Owens-Illinois).

Respectfully submitted,

REISING, ETHINGTON, BARNES,
KISSELLE, P.C.

By

A handwritten signature in black ink, appearing to read 'R. Collins', is written over a horizontal line.

Robert C. Collins

Reg. No. 27,430

Telephone (248) 689-3500

Facsimile (248) 689-4071